

### **REMARKS**

In the Office Action of July 1, 2004, claims 1-13 were rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of US Patent No. 6,684,939. The filing of a terminal disclaimer is being held in abeyance, pending resolution of the other grounds of rejection.

Claims 1 and 7-9 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. While Applicant respectfully traverses this ground of rejection for the reasons presented in the parent application, to advance the prosecution of the application claim 1 has been amended to remove the basis for the rejection.

Claims 1, 2, 3, 7, 10, 12 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over the combined teachings of the Kucharczyk patent and JP 8-5091, and optionally Chapter 3 of ASHRAE Equipment. Furthermore, claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over the prior art as applied to claim 10, and further in view of any one of the Taylor, Von Resch or Martin patents.

On the other hand, claims 4-6, and 8-9 were objected to as being dependent upon a rejected base claim, but indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

To address the rejections a set of amended claims with appropriate amendments are presented herein. The applicant respectfully submits that this currently amended set of claims has duly attended to the rejections raised in the Office Action and the claims are therefore in order for acceptance.

The amended set of claims comprises two independent claims, namely, claims 1 and 4, plus new dependent claims 14-17.

Amended claim 4 has been rewritten in independent form to include all the substantive features of original claims 1 and 2. Applicant respectfully submits that claim 4 is in order for allowance. In addition, since claims 5-13 are either directly or indirectly dependent on claim 4, claims 5-13 are also in order for allowance.

Claim 7 is now dependent on claim 4 instead of claim 1. A “means to monitor pressure imbalances” is now recited in claim 7. Support for this additional feature is found in the application as published (US 2004/0104008A1) at paragraphs [0043] and [0046]. The applicant submits that none of the prior art suggests the use of means to monitor pressure imbalances in the vicinity of a ventilator to provide additional suction power by operation of an additional air-moving device to compensate for loss in air flow due to clogging or partial clogging of the air filter. Hence, this additional feature distinguishes over the cited prior art.

Claim 10 has been converted from an independent claim to a dependent claim with dependency on claim 7. The additional features of this claim find support in the same paragraphs [0043] and [0046] mentioned above.

Claim 12 has been amended to introduce the feature that the first air stream is deflected substantially orthogonally twice while transiting through the first air compartment towards the first air-moving device. Support for this feature can be found in paragraph [0035] and Fig. 1.

The applicant further submits that pending independent claim 1 is patentable over all cited prior art and/or common general knowledge. Specifically, claim 1 has been amended

so that the additional air-moving device is in series with the first air-moving device and the words “during operation” have been added for better clarity. Furthermore, claim 1 has been amended by reciting the additional feature that “*said additional air-moving device being adapted to provide additional suction power to move additional air from said air filter towards said thermal exchanger whereby loss in air flow due to clogging or partial clogging of said air filter is compensated*”. The applicant respectfully submits that this feature sufficiently distinguishes this claim from prior art and/or common general knowledge and fulfils the requirements of patentability under 35 U.S.C.

In particular, none of the cited references, neither Kucharczyk, JP 8-5091 nor Chapter 3 of ASHRAE Equipment, teaches the utilization of an additional air-moving device as set out in claim 1 to provide additional suction power to compensate for the loss in air flow due to clogging or partial clogging of an air filter. More particularly, although the deterioration of thermal efficiency of a ventilator comprising a thermal exchanger is observed with time as explained at paragraphs [0041] to [0043], it is not common general knowledge that such deterioration was due to clogging or partial clogging of the air filter. Thus, the identification of the problem and a solution to overcome the drop in thermal efficiency by providing additional suction power within the ventilator is not suggested in the prior art. There is no suggestion in the cited references that would lead one to modify the teaching of Kucharczyk (Fig. 7) in view of JP 8-5091 to arrive at the design of a ventilator as claimed in claim 1. In these circumstances, the applicant requests the Examiner to look at the invention from the perspective of a solution to overcome the problem of deterioration of thermal efficiency by effluxion of time, without the knowledge that such degradation in air flow is due to clogging or partial clogging of the air filter. There is nothing to suggest

the solution provided by the structure of claim 1. The applicant respectfully submits that dependent claims 2, 3 and 14-17 are also patentable, as they are all dependent on claim 1.


The applicant submits that the additional features set out in claim 2 are also distinguishing. Specifically, the deflection means introduced in claim 2 results in a compact design, especially in view of the elongated design of JP 8-5091. Support of this additional feature is found in the published specification at paragraph [0035] and Fig. 1.

In view of the foregoing, it is respectfully submitted that all pending claims are patentable over the applied references. Reconsideration and withdrawal of the rejections are respectfully requested.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

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By:   
James A. LaBarre  
Registration No. 28,632

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620